

REMARKS

In response to the Office Action dated April 9, 2004, Applicants respectfully request reconsideration and withdrawal of the rejections of the claims.

The title of the invention was objected to, as not being descriptive. In response thereto, the title has been amended to incorporate the Examiner's suggestions.

In the Office Action, claims 1 and 9 were rejected under 35 U.S.C. § 102, on the grounds that they were considered to be anticipated by the Hoebing patent (U.S. 3,002,444); claims 1, 2 and 9 were rejected 35 U.S.C. § 102 on the basis of the Giebel et al. patent (U.S. 5,719,377); claim 1 was rejected under 35 U.S.C. § 102 on the basis of the Boehm et al. patent (U.S. 5,363,748); and claims 1 and 4 were rejected under 35 U.S.C. § 102 on the basis of the Sham et al. patent (U.S. 5,943,949). In addition, claims 2-9, 11 and 12 were rejected under 35 U.S.C. § 103, in view of combinations of the various cited references, and claim 10 was identified as containing allowable subject matter.

In response thereto, claim 10 has been rewritten in independent form, to place it in condition for allowance. In addition, claim 11 has been rewritten in independent form, and claim 1 has been amended to clarify the distinctions over the various references. Claim 2 has been canceled. Claims 1 and 3-12 are currently pending, and are submitted to be patentable over the prior art of record, for the reasons presented below.

As amended, claim 1 now recites that the container which is adapted to contain a smoking element is releasably engageable with the first heating member that heats the smoking element in the container. It is respectfully submitted that the

cited references do not disclose an arrangement in which the smoking-element container is releasably detachable from the heating element that heats the contents of the container. For example, the rejection of claim 2 noted that the Giebel patent discloses a container 18 that is releasably engageable with the grill plate 10.

However, the patent does not disclose that the container 18 is releasably engageable from the heating element 16, which heats the material in the container. It is respectfully submitted that the other cited references likewise do not disclose this claimed feature. Accordingly, claim 1, and its dependent claims 3-9, are submitted to be allowable over the references.

Claim 11 recites that the first heating member, for heating the smoking element in the container, is a light source, and claim 12 further recites that this light source is a halogen lamp. These two claims were rejected under 35 U.S.C. § 103, on the grounds that they were considered to be unpatentable over the Boehm patent in view of WO 00/56196. The Office Action characterizes this latter reference as teaching the use of quartz lamps as heat sources in electric grills. However, Applicants are unable to find any disclosure in the reference suggesting that lamps are employed as heat sources. Rather, the reference only discloses the use of quartz heating tubes 3. It is unclear whether these heating tubes function as light sources.

In any event, even if the heating tubes could be considered to be light sources, there is no motivation to employ them as heating elements for heating a container that contains a smoking element. The International Published Application is directed to a "smokeless" grill, and teaches that the heating elements are employed to heat the foodstuff from above, so as avoid contact with dripping juices

that could cause smoke. Thus, the International Published Application teaches away from using the heating elements to heat a container of smoking material.


Accordingly, it is respectfully submitted that the teachings of International Published Application WO 00/56196 would not lead a person of ordinary skill in the art to utilize a light source, particularly a halogen lamp, as the mechanism for heating a container of smoking elements, whether considered by itself or in combination with the Boehm patent. Reconsideration and withdrawal of the rejection of these claims is therefore respectfully requested.

For the foregoing reasons, it is respectfully submitted that all pending claims are patentable over the prior art of record, and a Notice of Allowance is respectfully solicited.

Respectfully submitted,

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